

REMARKS

Claims 1, 2, and 4-27 are currently pending in the application. By this amendment, claims 1, 2, 4, and 7 are amended and claims 21-27 are added for the Examiner's consideration. The above amendments do not add new matter to the application and are fully supported by the original disclosure. For example, support for the amendments is provided in the claims as originally filed, at Figures 2-4 and 13-18, and at paragraphs [0038] through [0051] of Applicants' published application (U.S. Pub. No. 2007/0028547). Reconsideration of the rejected claims in view of the above amendments and the following remarks is respectfully requested.

35 U.S.C. §102 Rejection

Claims 1-5, 7-9, 14, and 17-20 are rejected under 35 U.S.C. §102(b) as being anticipated by International Publication WO 00/20705 (hereinafter Martensson '705). Claims 1 and 13 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Pat. No. 6,763,643 (hereinafter Martensson '643). These rejections are respectfully traversed.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See, MPEP §2131. Applicants submit that the applied art does not show each and every feature of the claimed invention.

Claims 1-5, 7-9, 14, and 17-20 in view of Martensson '705

The invention relates to a device for connecting and locking building boards. More specifically, independent claim 1 has been amended to recite, in pertinent part:

...wherein the insert is provided with one resilient lip extending upward from a first side edge directed toward the top side of the insert, and another resilient lip extending downward from a second side edge directed toward the bottom side of the insert.

Applicants submit that Martensson '705 does not disclose these features, and therefore does not anticipate the claimed invention. Particularly, Applicants submit that Martensson '705 does not disclose an insert having a first resilient lip at a first side edge extending upward and a second resilient lip at a second side edge extending downward. Instead, in Martensson '705, the lips 11 at the side edges of the insert 10 are always formed extending in the same direction. For example, in FIG. 2a, both lips 11 extend upward from the side edges of the insert 10. Also, in FIGS. 7b-7c, both barbs 16 extend upward from the side edges of the insert. Martensson '705 never shows or describes a first lip extending upward from a side edge and a second lip extending downward from another side edge. Therefore, Martensson '705 cannot be said to disclose *the insert is provided with one resilient lip extending upward from a first side edge directed toward the top side of the insert, and another resilient lip extending downward from a second side edge directed toward the bottom side of the insert*, as recited in claim 1.

Claim 3 is canceled without prejudice or disclaimer, thereby rendering the rejection of claim 3 moot. Claims 2, 4, 5, 7-9, 14, and 17-20 depend from distinguishable claim 1, and are distinguishable from Martensson '705 at least for the reasons discussed above with respect to claim 1. Moreover, Martensson '705 does not disclose or suggest many of the additional features recited in these dependent claims.

For example, Martensson '705 does not disclose resilient lips extending from a side edges of an insert wherein *each resilient lip has a tip running obliquely to the top side and bottom side, which tip, for locking, cooperates with an obliquely running edge*, as recited in claim 4. To the

contrary, Martensson '705 discloses that lips 11 and barbs 16 engage vertical edges for locking. The vertical edges are not oblique. Therefore, it cannot reasonably be said that Martensson '705 discloses *each resilient lip has a tip running obliquely... which tip, for locking, cooperates with an obliquely running edge.*

Accordingly, Applicants respectfully request that the §102 rejection of claims 1-5, 7-9, 14, and 17-20 in view of Martensson '705 be withdrawn.

Claims 1 and 13 in view of Martensson '643

As discussed *supra*, independent claim 1 has been amended to recite, in pertinent part:

... wherein the insert is provided with one resilient lip extending upward from a first side edge directed toward the top side of the insert, and another resilient lip extending downward from a second side edge directed toward the bottom side of the insert.

Applicants submit that Martensson '643 does not disclose these features. More specifically, Applicants note that Martensson '643 is a national stage application of Martensson '705, such that the same reasons discussed above with respect to Martensson '705 are applicable for distinguishing the claimed invention from Martensson '643. Particularly, Martensson '643 does not disclose an insert having a first resilient lip at a first side edge extending upward and a second resilient lip at a second side edge extending downward. Therefore, Martensson '643 cannot arguably be said to disclose *the insert is provided with one resilient lip extending upward from a first side edge directed toward the top side of the insert, and another resilient lip extending downward from a second side edge directed toward the bottom side of the insert, as recited in claim 1.*

Claim 13 depends from distinguishable claim 1 and is distinguishable from Martensson '643 at least for the reasons discussed above with respect to claim 1.

Accordingly, Applicants respectfully request that the §102 rejection of claims 1 and 13 in view of Martensson '643 be withdrawn.

35 U.S.C. §103 Rejection

Claims 10-12, 15, and 16 are rejected under 35 U.S.C. §103(a) for being unpatentable over Martensson '705. Claim 6 is rejected under 35 U.S.C. §103(a) for being unpatentable over Martensson '705 U.S. in view of U.S. Pat. No. 2,863,185 (hereinafter Riedi). These rejections are respectfully traversed.

Claims 10-12, 15, and 16 in view of Martensson '705

Claims 10-12, 15, and 16 depend from distinguishable claim 1, and are distinguishable from Martensson '705 at least for the reasons discussed above with respect to claim 1. Moreover, Martensson '705 does not disclose or suggest many of the additional features recited in these dependent claims.

In fact, the Examiner expressly acknowledges that the applied art does not disclose all of the features of claims 10-12. Notwithstanding, the Examiner concludes that the claimed invention would have been obvious, alleging that “discovering the optimum or workable ranges involves only routine skill in the art.” Applicants disagree and submit that this type of rejection is clearly improper since the Supreme Court has held that rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *KSR*

Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727 (2007), quoting *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006). Moreover, in a post-*KSR* opinion, the Federal Circuit Court of Appeals notes

While the *KSR* court rejected a rigid application of the teaching, suggestion, or motivation (“TSM”) test in an obviousness inquiry, the [Supreme] Court acknowledged the importance of identifying ‘a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does’ in an obviousness determination.” *Takeda Chemical Industries, Ltd. v. Alphapharm Pty., Ltd.*, 492 F.3d 1350, 1356-1357 (Fed. Cir. 2007) (quoting *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1731 (2007)).

In the rejection of claims 10-12, the Examiner has failed to provide articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. Moreover, the Examiner fails to identifying a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does in an obviousness determination. Therefore, the rejection of claims 10-12 is improper and should be withdrawn.

Accordingly, Applicants respectfully request that the §103 rejection of claims 10-12, 15, and 16 be withdrawn.

Claim 6 in view of Martensson ‘705 and Riedi

Claim 6 depends from distinguishable claim 1, and is distinguishable from Martensson ‘705 at least for the reasons discussed above with respect to claim 1. Riedi does not compensate for the deficiencies of Martensson ‘705 with respect to independent claim 1 because Riedi does not disclose or suggest *the insert is provided with one resilient lip extending upward from a first side edge directed toward the top side of the insert, and another resilient lip extending*

downward from a second side edge directed toward the bottom side of the insert, as recited in claim 1.

Therefore, the applied art fails to disclose or suggest all of the features of claim 1, from which claim 6 depends. Accordingly, Applicants respectfully request that the §103 rejection of claim 6 be withdrawn.

Other Matters

Claims 2, 4, and 7 have been amended to maintain antecedent basis for recited terms.

New Claims

Claims 21-27 are added by this amendment and are believed to be distinguishable from the applied art at least for the following reasons. Claims 21-24 depend from claim 1, and are distinguishable from the applied art at least for the reasons discussed above with respect to claim 1. Claims 25 – 27 are independent claims, and recite combinations of features not disclosed, suggested, or implied by the applied art.

For example, new claim 27 recites, *inter alia*, a device for connecting floor panels in which the floor panels each have only a single groove on opposite edges, and wherein the floor panels being connected by substantially horizontal displacement, such as, for example, as shown in Applicants' FIGS. 16-18. Further according to claim 27, the insert is completely encompassed within the core material of the floor panels when the floor panels are connected. Even further according to claim 27, the insert has resilient lips that are directed toward the underside of the floor panels, and a projection provided centrally between the resilient lips. Applicants submit that this combination of features is not disclosed or suggested by the applied art.

Moreover, the combination of features recited in claim 27 provides benefits not attainable with the applied art. Aspects of the invention provide an improvement over existing devices in that embodiments of the invention include a device for connecting and locking floor panels such that as rigid a connection as possible is obtained between the insert and the floor panels. In implementations of the invention, the panels can be connected to one another by a purely horizontal joining movement, in which case the panel to be newly coupled is supported by the subfloor during the joining movement, and the insert can be connected to a panel at the factory in such a manner that it will not be lost.

For example, because the insert is completely encompassed by the core material of the floor panels, it can be inserted into a groove of one of the floor panels at the factory. Also, the fact that the resilient lips are directed towards the underside of the floor panels provides that the panel to be newly joined is prevented from rising vertically during the horizontal joining movement. Rather, the panel being connected by the horizontal joining movement is supported in a guided manner by the subfloor on which the panels lay during installation, such that the bottom lip of the panel being connected presses the resilient lip of the insert upward. As the insert is supported at its other end in the other panel, the connecting process is completely guided. Moreover, by virtue of the projection provided on the insert, both connected panels are supported against one another and against the subfloor at the point of connection. As a result, a secure and simple connection is obtained. These features, however, are not disclosed or suggested by the applied art.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that all of the claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed. Applicants hereby make a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 19-0089.

Respectfully submitted,
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